

RETURN DATE: MARCH 21, 2017 : SUPERIOR COURT
MATTHEW PORRETTA : JD OF STAMFORD
VS. : AT STAMFORD
CHEZ ERNIE'S CAFE, STEVEN : MARCH 1, 2017
J. PALMER AND CHRISTOPHER AIKLER

COMPLAINT

FIRST COUNT: (Defendant Chez Ernie's Cafe and Defendant Steven J. Palmer-Dram Shop Act)

1. Defendant Chez Ernie's Cafe is an establishment located at 25 Tokeneke Road in Darien, Connecticut.
2. At all times mentioned herein, Defendant Chez Ernie's Cafe by and through its agents, servants and/or employees operated an establishment that provided patrons with the ability to purchase and/or obtain alcoholic beverages.
3. At all relevant times herein, Defendant Steven J. Palmer ("the permittee") was the permittee of Defendant Chez Ernie's Cafe.
4. On December 18, 2016, at approximately 12:30 a.m., Matthew Porretta was a patron at Defendant Chez Ernie's Cafe.
5. On December 18, 2016, at approximately 12:30 a.m., Defendant Christopher Aikler (herein "Defendant Aikler") was a patron at Defendant Chez Ernie's Cafe.
6. On December 18, 2016, at sometime before the incident described above, while a patron of Defendant Chez Ernie's Cafe, Defendant Aikler was sold

alcoholic liquor while he was intoxicated, by the agents, servants, and/or employees of Defendant Chez Ernie's Cafe and/or Defendant Permittee.

7. At that same date, time and place, Matthew Porretta entered the general vicinity where Defendant Aikler was standing.

8. At that same date, time and place, unprovoked by Matthew Porretta and in consequence of his intoxication, Defendant Aikler struck Matthew Porretta in the head and left side of his face with a beer mug.

9. The force with which Defendant Aikler struck Matthew Porretta, was such that it caused the beer mug to shatter, and caused Matthew Porretta to be propelled backwards into a high top table, striking the back of his head and causing him to fall to the ground.

10. As a consequence of said intoxication, Defendant Aikler caused Matthew Porretta to suffer the following injuries and losses, some of which are permanent in nature:

- a. traumatic injury to left eye resulting in hyphema, vitreous hemorrhage, scleral laceration; pre-hemorrhage with retinal edema temporal with choroidal rupture;
- b. traumatic fracture of upper-anterior left nasal bone;
- c. facial lacerations including left cheek laceration through the dermis and deep and jagged left eye laceration;
- d. laceration of supraorbital left frontal scalp;
- e. traumatic injury to head;
- f. traumatic facial fracture;

- g. traumatic bilateral polypoid soft tissue opacification of the maxillary sinuses;
- h. traumatic opacification of scattered bilateral ethmoid air cells;
- i. aggravation of bilateral maxillary and ethmoid sinus mucosal disease;
- j. traumatic injury to nasal septum with deviation;
- k. traumatic injury to cervical spine with straightening of the normal cervical lordosis;
- l. aggravation of underlying diffuse posterior disc osteophyte complex at C5-6; and
- m. traumatic posterior disc bulge at C3-4.

11. As a further result of these injuries and the intoxication of Defendant Aikler, Matthew Porretta required emergency ocular surgery to salvage his left eyeball and to prevent phthisis.

12. As a further result of these injuries and the intoxication of Defendant Aikler, Matthew Porretta is likely to require further eye surgery in the future.

13. As a further result of these injuries and the intoxication of Defendant Aikler, Matthew Porretta is at an increased risk for losing sight in his left eye.

14. As a further result of these injuries and the intoxication of Defendant Aikler, Matthew Porretta has been left with permanent and disfiguring scarring.

15. As a further result of these injuries and the intoxication of Defendant Aikler, Matthew Porretta has experienced, and will experience in the future, mental and emotional injury.

16. As a further result of these injuries and the intoxication of Defendant Aikler, Matthew Porretta's ability to pursue and enjoy the activities he would otherwise have been able to do without pain and/or limitation, has been and continues to be permanently reduced.

17. As a further result of these injuries and the intoxication of Defendant Aikler, Matthew Porretta has incurred, and will incur in the future, medical expenses.

18. As a further result of these injuries and the intoxication of Defendant Aikler, Matthew Porretta has incurred lost wages and his ability to earn income in the future has been impaired.

19. Plaintiff seeks to recover damages for the injuries and losses described above pursuant to Conn. Gen. Stat. Sec. 30-102.

20. Written notice as required by Conn. Gen. Stat. Sec. 30-102 was given to Defendant Chez Ernie's Cafe through Defendant Permittee within one hundred twenty (120) days of the incident described herein. A copy of such notice is annexed hereto as Exhibit A.

SECOND COUNT: (Battery as to Defendant Christopher Aikler)

1. Defendant Chez Ernie's Cafe is an establishment located at 25 Tokeneke Road in Darien, Connecticut.

2. On December 18, 2016, at approximately 12:30 a.m., Matthew Porretta was a patron at Defendant Chez Ernie's Cafe.

3. On December 18, 2016, at approximately 12:30 a.m., Defendant Aikler was a patron at Defendant Chez Ernie's Cafe.

4. At that same date, time and place, Matthew Porretta entered the general vicinity where Defendant Aikler was standing.

5. At that same date, time and place, unprovoked by Matthew Porretta, Defendant Aikler intentionally, wantonly or without the exercise of due care struck Matthew Porretta in the head and left side of his face with a beer mug.

6. The force with which Defendant Aikler struck Matthew Porretta, was such that it caused the beer mug to shatter, and caused Matthew Porretta to be propelled backwards into a high top table, striking the back of his head and causing him to fall to the ground.

7. At that same date, time and place, by striking Matthew Porretta in the head and left side of his face with the beer mug, Defendant Aikler acted so as to cause a harmful or offensive contact, or an imminent apprehension of such contact upon Matthew Porretta.

8. By striking Matthew Porretta in the head and left side of his face with the beer mug, Defendant Aikler caused harmful contact with Matthew Porretta.

9. As a result of Defendant Aikler's harmful contact upon Matthew Porretta, Matthew Porretta suffered the following injuries and losses, some of which are permanent in nature:

- a. traumatic injury to left eye resulting in hyphema, vitreous hemorrhage, scleral laceration; pre-hemorrhage with retinal edema temporal with choroidal rupture;

- b. traumatic fracture of upper-anterior left nasal bone;
- c. facial lacerations including left cheek laceration through the dermis and deep and jagged left eye laceration;
- d. laceration of supraorbital left frontal scalp;
- e. traumatic injury to head;
- f. traumatic facial fracture;
- g. traumatic bilateral polypoid soft tissue opacification of the maxillary sinuses;
- h. traumatic opacification of scattered bilateral ethmoid air cells;
- i. aggravation of bilateral maxillary and ethmoid sinus mucosal disease;
- j. traumatic injury to nasal septum with deviation;
- k. traumatic injury to cervical spine with straightening of the normal cervical lordosis;
- l. aggravation of underlying diffuse posterior disc osteophyte complex at C5-6; and
- m. traumatic posterior disc bulge at C3-4.

10. As a further result of these injuries and the battery by Defendant Aikler, Matthew Porretta required emergency ocular surgery to salvage his left eyeball and to prevent phthisis.

11. As a further result of these injuries and the battery by Defendant Aikler, Matthew Porretta is likely to require further eye surgery in the future.

12. As a further result of these injuries and the battery by Defendant Aikler, Matthew Porretta is at an increased risk for losing sight in his left eye.

13. As a further result of these injuries and the battery by Defendant Aikler, Matthew Porretta has been left with permanent and disfiguring scarring.

14. As a further result of these injuries and the battery by Defendant Aikler, Matthew Porretta has experienced, and will experience in the future, mental and emotional injury.

15. As a further result of these injuries and the battery by Defendant Aikler, Matthew Porretta's ability to pursue and enjoy the activities he would otherwise have been able to do without pain and/or limitation, has been and continues to be permanently reduced.

16. As a further result of these injuries and the battery by Defendant Aikler, Matthew Porretta has incurred, and will incur in the future, medical expenses.

17. As a further result of these injuries and the battery by Defendant Aikler, Matthew Porretta has incurred lost wages and his ability to earn income in the future has been impaired.

THIRD COUNT: (Assault as to Defendant Christopher Aikler)

1. Defendant Chez Ernie's Cafe is an establishment located at 25 Tokeneke Road in Darien, Connecticut.

2. On December 18, 2016, at approximately 12:30 a.m., Matthew Porretta was a patron at Defendant Chez Ernie's Cafe.

3. On December 18, 2016, at approximately 12:30 a.m., Defendant Aikler was a patron at Defendant Chez Ernie's Cafe.

4. At that same date, time and place, Matthew Porretta entered the general vicinity where Defendant Aikler was standing.

5. At that same date, time and place, unprovoked by Matthew Porretta, Defendant Aikler intentionally, wantonly or without the exercise of due care raised his beer mug with the intent to strike Matthew Porretta.

6. At that same date, time and place, Matthew Porretta believed that unless he could prevent Defendant Aikler from striking him with the beer mug, imminent contact would result.

7. At that same date, time and place, Defendant Aikler struck Matthew Porretta, with such force that it caused the beer mug to shatter, and caused Matthew Porretta to be propelled backwards into a high top table, striking the back of his head and causing him to fall to the ground.

8. At that same date, time and place, by striking Matthew Porretta in the head and left side of his face with the beer mug, Defendant Aikler acted with intent to cause a harmful or offensive contact, or an imminent apprehension of such contact upon Matthew Porretta.

9. By striking Matthew Porretta in the head and left side of his face with the beer mug, Defendant Aikler placed Matthew Porretta in imminent apprehension of such harmful or offensive contact.

10. As a result of Defendant Aikler's action of striking Matthew Porretta in the head and left side of his face with the beer mug, Matthew Porretta suffered the following injuries and losses, some of which are permanent in nature:

- a. traumatic injury to left eye resulting in hyphema, vitreous hemorrhage, scleral laceration; pre-hemorrhage with retinal edema temporal with choroidal rupture;
- b. traumatic fracture of upper-anterior left nasal bone;
- c. facial lacerations including left cheek laceration through the dermis and deep and jagged left eye laceration;
- d. laceration of supraorbital left frontal scalp;
- e. traumatic injury to head;
- f. traumatic facial fracture;
- g. traumatic bilateral polypoid soft tissue opacification of the maxillary sinuses;
- h. traumatic opacification of scattered bilateral ethmoid air cells;
- i. aggravation of bilateral maxillary and ethmoid sinus mucosal disease;
- j. traumatic injury to nasal septum with deviation;
- k. traumatic injury to cervical spine with straightening of the normal cervical lordosis;
- l. aggravation of underlying diffuse posterior disc osteophyte complex at C5-6; and
- m. traumatic posterior disc bulge at C3-4.

11. As a further result of these injuries and the assault by Defendant Aikler, Matthew Porretta required emergency ocular surgery to salvage his left eyeball and to prevent phthisis.

12. As a further result of these injuries and the assault by Defendant Aikler, Matthew Porretta is likely to require further eye surgery in the future.

13. As a further result of these injuries and the assault by Defendant Aikler, Matthew Porretta is at an increased risk for losing sight in his left eye.

14. As a further result of these injuries and the assault by Defendant Aikler, Matthew Porretta has been left with permanent and disfiguring scarring.

15. As a further result of these injuries and the assault by Defendant Aikler, Matthew Porretta has experienced, and will experience in the future, mental and emotional injury.

16. As a further result of these injuries and the assault by Defendant Aikler, Matthew Porretta's ability to pursue and enjoy the activities he would otherwise have been able to do without pain and/or limitation, has been and continues to be permanently reduced.

17. As a further result of these injuries and the assault by Defendant Aikler, Matthew Porretta has incurred, and will incur in the future, medical expenses.

18. As a further result of these injuries and the assault by Defendant Aikler, Matthew Porretta has incurred lost wages and his ability to earn income in the future has been impaired.

FOURTH COUNT: (Negligence as to Defendant Christopher Aikler)

1. Defendant Chez Ernie's Cafe is an establishment located at 25 Tokeneke Road in Darien, Connecticut.

2. On December 18, 2016, at approximately 12:30 a.m., Matthew Porretta was a patron at Defendant Chez Ernie's Cafe.

3. On December 18, 2016, at approximately 12:30 a.m., Defendant Aikler was a patron at Defendant Chez Ernie's Cafe.

4. At that same date, time and place, Matthew Porretta entered the general vicinity where Defendant Aikler was standing.

5. At that same date, time and place, unprovoked by Matthew Porretta, Defendant Aikler struck Matthew Porretta in the head and left side of his face with a beer mug.

6. This incident and the resulting injuries and losses suffered by Matthew Porretta were caused by the negligence of Defendant Aikler in that he swung his beer mug in the general direction of Matthew Porretta when he knew or should have known that he was likely to strike Matthew Porretta.

7. As a result of Defendant Aikler's negligence, Matthew Porretta suffered the following injuries and losses, some of which are permanent in nature:

- a. traumatic injury to left eye resulting in hyphema, vitreous hemorrhage, scleral laceration; pre-hemorrhage with retinal edema temporal with choroidal rupture;
- b. traumatic fracture of upper-anterior left nasal bone;
- c. facial lacerations including left cheek laceration through the dermis and deep and jagged left eye laceration;
- d. laceration of supraorbital left frontal scalp;
- e. traumatic injury to head;
- f. traumatic facial fracture;
- g. traumatic bilateral polypoid soft tissue opacification of the maxillary sinuses;

- h. traumatic opacification of scattered bilateral ethmoid air cells;
- i. aggravation of bilateral maxillary and ethmoid sinus mucosal disease;
- j. traumatic injury to nasal septum with deviation;
- k. traumatic injury to cervical spine with straightening of the normal cervical lordosis;
- l. aggravation of underlying diffuse posterior disc osteophyte complex at C5-6; and
- m. traumatic posterior disc bulge at C3-4.

8. As a further result of these injuries and the negligence of Defendant Aikler, Matthew Porretta required emergency ocular surgery to salvage his left eyeball and to prevent phthisis.

9. As a further result of these injuries and the negligence of Defendant Aikler, Matthew Porretta is likely to require further eye surgery in the future.

10. As a further result of these injuries and the negligence of Defendant Aikler, Matthew Porretta is at an increased risk for losing sight in his left eye.

11. As a further result of these injuries and the negligence of Defendant Aikler, Matthew Porretta has been left with permanent and disfiguring scarring.

12. As a further result of these injuries and the negligence of Defendant Aikler, Matthew Porretta has experienced, and will experience in the future, mental and emotional injury.

13. As a further result of these injuries and the negligence of Defendant Aikler, Matthew Porretta's ability to pursue and enjoy the activities he would

otherwise have been able to do without pain and/or limitation, has been and continues to be permanently reduced.

14. As a further result of these injuries and the negligence of Defendant Aikler, Matthew Porretta has incurred, and will incur in the future, medical expenses.

15. As a further result of these injuries and the negligence of Defendant Aikler, Matthew Porretta has incurred lost wages and his ability to earn income in the future has been impaired.

FIFTH COUNT: (Common Law Recklessness as to Defendant Christopher Aikler)

1. Defendant Chez Ernie's Cafe is an establishment located at 25 Tokeneke Road in Darien, Connecticut.

2. On December 18, 2016, at approximately 12:30 a.m., Matthew Porretta was a patron at Defendant Chez Ernie's Cafe.

3. On December 18, 2016, at approximately 12:30 a.m., Defendant Aikler was a patron at Defendant Chez Ernie's Cafe.

4. At that same date, time and place, Matthew Porretta entered the general vicinity where Defendant Aikler was standing.

5. At that same date, time and place, unprovoked by Matthew Porretta, Defendant Aikler struck Matthew Porretta in the head and left side of his face with a beer mug.

6. This incident was caused by the recklessness of Defendant Aikler in that with conscious disregard for the safety of Matthew Porretta, Defendant Aikler, a

trained mixed martial arts fighter, smashed Matthew Porretta in the face with his beer mug, without any provocation, and with such force as to shatter the beer mug and to cause Matthew Porretta to be propelled backwards into a high top table, causing him to strike the back of his head and causing him to fall to the ground.

7. As a result of Defendant Aikler's recklessness, Matthew Porretta suffered the following injuries and losses, some of which are permanent in nature:

- a. traumatic injury to left eye resulting in hyphema, vitreous hemorrhage, scleral laceration; pre-hemorrhage with retinal edema temporal with choroidal rupture;
- b. traumatic fracture of upper-anterior left nasal bone;
- c. facial lacerations including left cheek laceration through the dermis and deep and jagged left eye laceration;
- d. laceration of supraorbital left frontal scalp;
- e. traumatic injury to head;
- f. traumatic facial fracture;
- g. traumatic bilateral polypoid soft tissue opacification of the maxillary sinuses;
- h. traumatic opacification of scattered bilateral ethmoid air cells;
- i. aggravation of bilateral maxillary and ethmoid sinus mucosal disease;
- j. traumatic injury to nasal septum with deviation;
- k. traumatic injury to cervical spine with straightening of the normal cervical lordosis;
- l. aggravation of underlying diffuse posterior disc osteophyte complex at C5-6; and
- m. traumatic posterior disc bulge at C3-4.

8. As a further result of these injuries and the recklessness of Defendant Aikler, Matthew Porretta required emergency ocular surgery to salvage his left eyeball and to prevent phthisis.

9. As a further result of these injuries and the recklessness of Defendant Aikler, Matthew Porretta is likely to require further eye surgery in the future.

10. As a further result of these injuries and the recklessness of Defendant Aikler, Matthew Porretta is at an increased risk for losing sight in his left eye.

11. As a further result of these injuries and the recklessness of Defendant Aikler, Matthew Porretta has been left with permanent and disfiguring scarring.

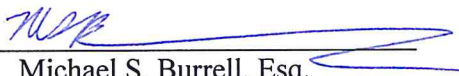
12. As a further result of these injuries and the recklessness of Defendant Aikler, Matthew Porretta has experienced, and will experience in the future, mental and emotional injury.

13. As a further result of these injuries and the recklessness of Defendant Aikler, Matthew Porretta's ability to pursue and enjoy the activities he would otherwise have been able to do without pain and/or limitation, has been and continues to be permanently reduced.

14. As a further result of these injuries and the recklessness of Defendant Aikler, Matthew Porretta has incurred, and will incur in the future, medical expenses.

15. As a further result of these injuries and the recklessness of Defendant Aikler, Matthew Porretta has incurred lost wages and his ability to earn income in the future has been impaired.

THE PLAINTIFF,

By: 
Michael S. Burrell, Esq.
msb@AHCTrialLaw.com
Adelman Hirsch & Connors, LLP
1000 Lafayette Boulevard
Bridgeport, CT 06604
(203) 331-8888 Juris: 416503

RETURN DATE: MARCH 21, 2017 : SUPERIOR COURT
MATTHEW PORRETTA : JD OF STAMFORD
VS. : AT STAMFORD
CHEZ ERNIE'S CAFE, STEVEN : MARCH 1, 2017
J. PALMER AND CHRISTOPHER AIKLER

STATEMENT OF AMOUNT IN DEMAND

WHEREFORE, the Plaintiff claims:

1. First Count, Second Count, Third Count and Fourth Count compensatory monetary damages in excess of \$15,000, exclusive of interest and costs.
2. First Count through Fifth Count any costs and interest the court deems just and proper; and
3. Fifth Count punitive damages with inclusive of costs, interest and reasonable attorney's fees.

THE PLAINTIFF,

By: 
Michael S. Burrell, Esq.
msb@AHCtriallaw.com
Adelman Hirsch & Connors, LLP
1000 Lafayette Boulevard
Bridgeport, CT 06604
(203) 331-8888 Juris: 416503

EXHIBIT A

January 23, 2017

VIA STATE MARSHAL &
VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
TO STEVEN J. PALMER

NOTICE IN DRAM SHOP ACTION

To: Steven J. Palmer, Owner/Permittee
Chez Ernies
25 Tokeneke Road
Darien, CT 06820-4605

Re: Matthew C. Porretta

Pursuant to the provisions of Conn. Gen. Stat. §30-102, notice of intention to bring an action under §30-102 is hereby given to you as follows:

1. TIME, DATE AND PERSON TO WHOM SUCH SALE WAS MADE

On the evening of December 17, 2016, and in the early morning of December 18, 2016, Christopher Aikler was sold alcoholic beverages while intoxicated at Chez Ernies.

2. NAME AND ADDRESS OF THE PERSON INJURED

The injured person is Matthew C. Porretta. He resides at 26 Fairfield Avenue in Darien, Connecticut 06880.

**3. TIME, DATE AND PLACE WHERE THE INJURY TO PERSON
OCCURRED**

On December 18, 2016, at approximately 1:00 a.m., Christopher Aikler assaulted Matthew C. Porretta while under the influence of alcohol. The incident took place at Chez Ernies, 25 Tokeneke Road, Darien, Connecticut 06820-4605. At that time, Mr.

Aikler was served alcoholic beverages by the agents, servants, and/or employees of Chez Ernies while he was intoxicated.

As a result of the incident described above, Matthew C. Porretta sustained traumatic injuries, including but not limited to, injuries to his left eye requiring emergency surgery, lacerations to back of head, facial scarring and disfigurement. As a further result of the assault, Mr. Porretta is at risk of losing the sight in his left eye.

It is the intention of Matthew C. Porretta to initiate suit under §30-102 of the Connecticut General Statutes as a result of this incident.

Matthew C. Porretta

BY: 

Michael S. Burrell, Esq.
mburrell@AHCTriallaw.com
Adelman Hirsch & Connors, LLP
1000 Lafayette Boulevard
Bridgeport, CT 06604
(203) 331-8888; Firm Juris # 416503

Dated at Bridgeport, Connecticut this _____ day of _____, 2017

State of Connecticut

SS: **Darien**

January 30, 2017

County of Fairfield

Then and there by virtue of the original Notice in Dram Shop Action I made service upon the within named defendant,

Steven J. Palmer→Owner/Permittee, Chez Ernies

By leaving a true and attested copy of the original Notice in Dram Shop Action with my doings thereon endorsed,

With and in the hands of Steven J. Palmer→Owner, Chez Ernies at 25 Tokeneke Road, Darien, CT.; in accordance with C.G.S. 30-102; and;

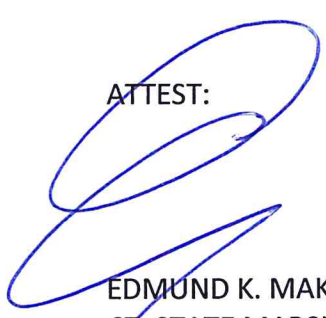
With and in the hands of Steven J. Palmer→Permittee, Chez Ernies at 25 Tokeneke Road, Darien, CT.; in accordance with C.G.S. 30-102;

The within and foregoing is the original Notice in Dram Shop Action with my doings hereon endorsed.

FEES:

Process	\$	60.00
Travel		25.92→[4+ x 12 @ \$ 0.54]
Copies		4.00
Endorsements		2.40
TOTAL	\$	92.32

ATTEST:



EDMUND K. MAKOWSKI
CT. STATE MARSHAL
FAIRFIELD COUNTY